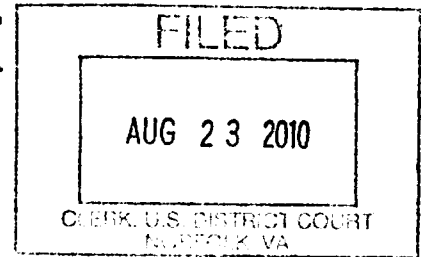


UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Norfolk Division



LARRY MOORE,

Plaintiff,

v.

ACTION NO. 2:09cv549

MICHAEL J. ASTRUE,  
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

FINAL ORDER

Plaintiff brought this action under Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), seeking judicial review of the final decision of the Commissioner of the Social Security Administration ("Commissioner") denying plaintiff's claim for disability insurance benefits ("DIB"), under the Social Security Act.

On March 9, 2010, this matter was referred to a United States Magistrate Judge, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72(b) of the Federal Rules of Civil Procedure for report and recommendation. Report of the magistrate judge was filed on July 27, 2010, recommending that the Commissioner's decision be reversed and the case be remanded to allow the administrative law judge to reevaluate whether Moore satisfies the criteria of Listing 12.05(C). By copy of the report, each party was advised of the right to file written objections to the findings and recommendations made by the magistrate judge. The court has

received no objections to the magistrate judge's report and recommendation, and the time for filing same has expired.

The court does hereby adopt and approve the findings and recommendations set forth in the report of the United States Magistrate Judge filed July 27, 2010. Accordingly, defendant's Motion for Summary Judgment is **DENIED**; plaintiff's Motion for Summary Judgment seeking disability insurance benefits is **DENIED IN PART**, but the motion is **GRANTED** to the extent of vacating and remanding the Commissioner's decision; and, the matter is **REMANDED** to the Commissioner of Social Security pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with the Report and Recommendation filed in this matter on July 27, 2010.

The Clerk shall forward a copy of this Final Order to counsel for plaintiff and defendant.

/s/  
Rebecca Beach Smith  
United States District Judge

*RB*

REBECCA BEACH SMITH  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

August 23, 2010